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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement* submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201029*

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Conscientious Objection to Military Service

1. Friends World Committee for Consultation (Quakers) welcomes the decision of the UN Commission on Human Rights in Resolution 2000/34 to request the Office of the UN High Commissioner for Human Rights to prepare a compilation and analysis of best practices concerning the recognition of conscientious objection to military service and the provision of alternative service. This should provide a valuable tool to assist States in reviewing their current laws and practices (as called for by Resolution 2000/34) and in making appropriate provision for the right of conscientious objection to military service.

2. For more than 300 years, Quakers have refused to participate in war, believing it is wrong to kill or to train people to kill. This is a conviction held by many people of different religious faiths and beliefs. It is on these grounds that Quakers claim the right to conscientious objection to military service, not only for themselves but for all who share their pacifist beliefs.

3. We therefore welcome the increased emphasis nationally, regionally1 and internationally that is being given to the right of conscientious objection to military service; in particular, at the international level by the Human Rights Committee in its consideration of reports from States parties to the International Covenant on Civil and Political Rights, and by the Special Procedures of the UN Commission on Human Rights. We note that the Working Group on Arbitrary Detention has adopted a specific Recommendation (No. 2) on "Detention of conscientious objectors" which recommends "all States that have not yet done so adopt appropriate legislative or other measures to ensure that conscientious objector status is recognised and attributed" and "to prevent the judicial system from being used to force conscientious objectors to change their convictions." 2 Furthermore, in 1999 the Sub-Commission on the Promotion and Protection of Human Rights called upon "all States that retain the death penalty especially for refusal to undertake military service or for desertion not to apply the death penalty where the refusal to undertake military service or the desertion is the result of conscientious objection to such service".3 In this context it is important to understand that the right of conscientious objection to military service exists independently of the question of alternative service. Although many States require an alternative form of service, this is not a necessary condition for the recognition of the right of conscientious objection and some states have made provision for unconditional exemption in certain cases.

4. Friends World Committee for Consultation (Quakers) welcomes these steps forward, and looks forward to receiving the Compilation and Analysis of best practices called for in Commission resolution 2000/34. However, FWCC believes that the Compilation and Analysis should cover all aspects of the issue covered by Commission resolution 1998/77, and, since this is a compilation of "best practices" in so far as State practice goes beyond the minimum required by the Commission resolution, such practices should also be included. Furthermore, it is essential to cover the process of military recruitment itself. It is self-evident that no effective provision can be made for conscientious objection to military service, unless military service itself meets certain

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1 See for example, the decision of the European Committee of Social Rights, under the European Social Charter in Complaint No. 8/2000 by the Quaker Council for European Affairs (QCEA) Against Greece, adopted on 25 April 2001

2 Report of the Working Group on Arbitrary Detention (E/CN.4/2001/14 of 20 December 2000), *Recommendation 2: detention of conscientious objectors*, paras. 91-94

3 Sub-Commission Resolution 1999/4 of 24 August 1999, paragraph 3

minimum requirements. These must at least entail that:

(i) Any recruitment (whether compulsory or voluntary) is prescribed by law.
(ii) The law is clear as to whom it applies by specifying such matters as the age range, the sex, nationality, and any exemptions whether on grounds of conscience, or other grounds.
(iii) The law is publicised so that it is known to those liable to recruitment and those not liable to it, and that they are also informed about what safeguards and appeal procedures exist.
(iv) The law is enforced by lawful means, and that there are adequate safeguards to ensure that the laws are applied, including provisions for checking the age of recruits, and military disciplinary or criminal penalties exist and are applied in relation to recruiters who contravene the legal recruitment procedures.

Moreover, we believe that the more detailed and specific the information provided, and the greater the range of good models included in the Compilation and Analysis in relation to each aspect, the greater the assistance it will provide to States and others in developing or improving provision for conscientious objection to military service. The report to the 58th session of the UN Commission on Human Rights should therefore be considered as a preliminary one, and further input should be sought from States, national human rights institutions, non-governmental organisations and others to enable a more comprehensive one to be provided to the 60th session of the Commission.

5. Regrettably, many conscientious objectors are still not recognized as such, continue to be imprisoned, are subjected to repeated call-ups and imprisonment. Others are harassed, ill-treated and discriminated against.

6. FWCC is therefore calling on the Commission on Human Rights to again urge all States to take early action to review their laws and practices in the light of resolution 1998/77 as called for by resolution 2000/34. In particular, the Commission should call on all States to:

(a) Immediately recognize the right of conscientious objection to military service as a legitimate expression of the freedom of thought, conscience and religion, if they have not yet done so;
(b) Release all conscientious objectors from imprisonment and, in particular, refrain from calling up for military service those who have already served prison terms for their refusal to perform such service on grounds of conscience;
(c) Set a timetable for the review of their laws and practices on conscientious objection to military service and the provision of alternative service;
(d) Pending the completion of such a review, to declare an immediate moratorium on actions against those claiming the right of conscientious objection to military service, in particular, under no circumstances to apply the death penalty to those who refuse to undertake military service or who desert because of their conscientious objection to such service; and
(e) Provide asylum (with the assistance of the Office of the United Nations High Commissioner for Refugees) to conscientious objectors compelled to leave their country of origin because they fear persecution owing to their refusal to perform military service.